

**MINUTES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Ruben Nino

v. **Charles Flannigan, et al.**

THE HONORABLE JOHN W. SEDWICK

2:04-cv-02298-JWS

PROCEEDINGS: **ORDER FROM CHAMBERS**

Date: May 14, 2007

Ruben Nino has asked the court to issue a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The issues were briefed, and Magistrate Judge Pyle filed a report at docket 26 in which he recommends that petitioner's claim of ineffective assistance from his lawyer be dismissed as unexhausted and procedurally barred, and that his *Blakely* claim be denied on the merits. No objections have been filed.

When reviewing a recommendation from a magistrate judge in a case such as this, the district court reviews all recommended findings of fact as to which an objection is taken and all recommended conclusions of law *de novo*. The district court reviews all other recommended findings of fact for clear error. Having applied the standards just recited, this court concludes that the magistrate judge's recommendations are in all respects correct. This court adopts them. Based thereon, the claim of ineffective assistance of counsel is dismissed as procedurally barred, and the *Blakely* claim is denied on its merits.

For the reasons above, the petition is **DENIED**, and all claims made by Nino are **DISMISSED** with prejudice.

The status motion filed by Nino at docket 24 is **DENIED as moot**.

The Clerk will please close this file.
